IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITR No.145 of 1995
Date of decision:27.10.2006

The Commissioner of Income tax, Jalandhar

....Petitioner

versus

M/s. Harpal Singh Jaswant Singh, Malout

....Respondent

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Dr. N.L. Sharda, Advocate, for the revenue.

JUDGMENT:

Following questions of law have been referred for the opinion of this Court by the Income Tax Appellate Tribunal, Amritsar Bench, Amritsar, arising out of its order dated 18.1.1994 in ITA No.405(ASR)/93 for the assessment year 1991-92:-

> "Whether, on the facts and in the circumstances of the case, the Tribunal is justified in cancelling the penalty of Rs.1,50,000/- levied under section 271-E of the Income Tax Act, 1961?"

The assessee is a commission agent. The Assessing Officer found that the assessee made repayments of Rs.20,000/- and above otherwise than through account payee cheques or account payee bank drafts, thereby violating the provisions of section 269-T of the Income Tax Act, 1961 (for short, 'the Act'). Accordingly, reference was made to the Deputy CIT, Bhatinda Range, Bhatinda for imposing penalty, who imposed penalty of Rs.1,50,000/-. The CIT(A) deleted the penalty holding that the provisions of section 269-T of the Act were not applicable to the case as the repayments by the assessee could not be held to be deposits. This view was upheld by the Tribunal.

Identical question has been examined by this Court in ITA

No.102 of 1999 **(The Commissioner of Income Tax, Jalandhar v. M/s. Avet Chemicals (P) Limited, Jalandhar**), decided on 11.9.2006 and following judgment of the Hon'ble Supreme Court in **Assistant Director of Inspection (Investigation) v. Kum. A.B.Shanthi,** (2002) 255 ITR 258, the question was answered against the revenue and in favour of the assessee.

Accordingly, the question referred in the present case is answered against the revenue and in favour of the assessee.

(Adarsh Kumar Goel)
Judge

October 27,2006 (Rajesh Bindal)
'gs' Judge